IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN AT JODHPUR.

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S.B. CIVIL WRIT PETITION NO.1215/2005

Anil Kumar

Versus

Union of India and Ors.

Date of Order :13.5.2005

PRESENT

HON'BLE MR. JUSTICE R.P. VYAS

Mr.B.S. Sandhu, for the petitioner
Mr.Kamal Dave, for the respondents.

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The instant petition has been filed by the petitioner with the prayer that the respondents may kindly be directed to clear the petitioner in the physical measurement test of chest and take necessary physical efficiency test, written test and interview and accordingly consider the candidature of the petitioner for the post of Constable, Railway Protection Force.

The brief facts of the case are that the petitioner belongs to OBC category. The Chief Protection Commissioner, Railway Protection Force,

North-Western Railway, Jaipur issued a notification dated 23.11.2004 inviting applications for the post of Constable for the various districts/ units in the State of Rajasthan, in all 437 posts were advertised and the selection process was to be done in various steps districtwise, therefore, different dates were fixed for different district for holding selection.

The further case of the petitioner that for the District Ganganagar and Churu the date of 25.1.2005 and 27.1.2005 to 28.1.2005 respectively were fixed for the selection of the candidates of these two districts. However, on account of Panchayat election the entire selection was postponed and the date of 20.2.2005 was fixed for the purpose of selection for Ganganagar and Churu districts.

The petitioner being eligible for appointment on the post of Constable appeared before the selection committee on 20.5.2005 at 7.00 a.m. at railway stadium alongwith the application form and other relevant documents. On submission of the form the petitioner was allotted roll No. 50183 to the petitioner.

It has been alleged in the writ petition that the petitioner undertook the run of 1500 mtrs. and completed the same within prescribed time i.e. Within 5 minutes and 40 seconds. The successful candidates in the run were required to undergo physical measurement test of height and chest. The minimum height required for appointment on the post of Constable is 160 cms. and the chest must be atleast 80 cms. and on inflation there should be an increased of 5 cms. to clear the physical measurement test. The petitioner underwent the physical measurement of height and chest. His height was found to 168 cms. which was more than the minimum height prescribed by the respondents. Thereafter, the physical examination of chest was done and the members of the selection committee declared the petitioner unsuccessful in the chest measurement. As per the members of the selection committee the chest of the petitioner was found to be less than 80 cms. and rejected the candidature of the petitioner accordingly.

The petitioner's case is that he is power lifter

and participated in power-lifting meet for boys 2003-2004 held by the Maharishi Dayanand University, Ajmer and he secured second place in 56 kgs. weight.

The petitioner accordingly requested the members of the selection committee about the measurement of his chest and stated that he was physically fit and there must have been some mistake in the measurement of his chest and he is a power-lifter and has participated in various sports events held by the University.

On the objection raised by the petitioner the respondents asked the petitioner to contact the Chairman of the Selection Committee. However, the Chairman (respondent No.3) refused to do anything in the matter stating that his candidature has already been rejected. On 22.2.2005, the petitioner again submitted representation to the respondent No.3 for redressal of his grievance but to no avail.

The main contention of the petitioner is that he fulfill the measurement of the chest required by the

respondents and was well above the 80 cms. as prescribed by the respondents. The selection committee intentionally rejected the candidature of the petitioner by wrongly recording the measurement of his chest to be less than prescribed 80 cms. for the purpose of giving employment to some blue-eyed persons. In support of his contention the petitioner submitted that he was examined by Dr. B.Derashri, Sr. Medical Officer, Incharge, University Health Centre, Jodhpur and on test the petitioner's chest measurement from nipple to nipple is 86 cms. and during inspiration it comes to 92 cms. This test was conducted on 22.2.2005 on the very next day of rejection of candidature of the petitioner. The petitioner has placed on record the said certificate (Annex.-4). Thus, the petitioner submits that the respondents may be directed to clear the petitioner in the physical measurement of chest.

Reply to the writ petition was filed by the respondents and their case is that after completing 1500 mtrs. race the physical measurement of the petitioner was taken by one of the members of the

selection committee by applying the same standard as was made applicable for all other candidates and the measurement of the chest was found to be 78 cms. which is below the prescribed measurement of 80 cms.

Heard the learned counsel for the parties at length and scanned the documents taken by both the counsels.

In the present case the petitioner has vehemently stated that his chest measurement is above the prescribed measurement and in support of his contention he has filed a certificate (Annex.-4) showing measurement of his chest by Dr. Derashri, Sr. Medical Officer Incharge, University Health Centre, JNVUL, Jodhpur. When the allegations have been levelled against the members of the selection committee, it is a subject matter of enquiry. The petitioner has raised the dispute regarding the measurement of his chest immediately to the respondents including the respondent No.3 on the very same day. On the very next day i.e. 22.2.2005 he got himself examined by Sr. Medical Officer Incharge, University Health Centre, JNVUL, Jodhpur. The petitioner is seeking public employment,

therefore, equal opportunity is required to be given to him to face the selection process strictly in accordance with law.

In the peculiar facts and circumstances of the present case and in order to meet the ends of justice, I direct the authority concerned to consider the candidature of the petitioner again by subjecting him to physical measurement test of chest by a selection committee consisting of the members who were not there in the earlier selection committee and to take necessary physical efficiency test of the petitioner. If the petitioner declared passed / fit in the physical efficiency test, then his written test and interview may be taken, strictly in accordance with law. If the petitioner is declared passed in the aforesaid tests / examinations and interview and is otherwise found suitable, then his candidature for the post of Constable in the Railway Protection Force may be considered. If he is not found suitable for the aforesaid post, then a reasoned and speaking order, strictly in accordance with law, may be passed by the Authority concerned.

In view of the above, the writ petition stands disposed of. No order as to costs.

(R.P.VYAS)J.